

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

PERFORMANCE PRICING, INC.,

Plaintiff,

vs.

No. 2:07-CV-432 (LED)

GOOGLE, INC., AOL LLC,
MICROSOFT CORPORATION,
YAHOO! INC., IAC SEARCH
& MEDIA, INC., and A9.COM,
INC.,

Defendants.

DEPOSITION OF NEAL M. COHEN

Irvine, California

Wednesday, February 11, 2009

Reported by:
DENISE BARDSLEY
CSR No. 11241

JOB No. 105088

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1 to presume for right now, for the sake of simplicity,
2 the '253 is the one I worked on and take your
3 representation that you have the information that
4 shows that I did that.

5 Q Yeah.

6 A If that's true, it might have even been this
7 '253 patent --

8 Q Okay.

9 A -- that I talked to him about.

09:57 10 Q Okay. So in the last year, when you've
11 spoken to him, why -- have you billed him for your
12 time, Mr. Lin?

13 A I believe I did. I didn't say it was in the
14 last year, though.

15 Q Okay. You said -- I'm kind of moving on to a
16 different set of communications. I understand that
17 wasn't clear.

18 You previously indicated that within the past
19 year you've had several attorney-client communications
09:57 20 with Mr. Lin, right?

21 A I didn't say "several," but I have had some,
22 yes.

23 Q And have you charged Mr. Lin for those
24 communications?

25 A I don't recall, but I don't believe I did.

1 Q Okay. Why not?

2 A I'm not going to answer that question because
3 I believe that would reveal attorney-client privileged
4 information.

5 Q How does that involve revealing attorney-
6 client --

7 A Well, I believe any communications I have had
8 with Mr. Lin have been attorney-client privileged, and
9 what you're asking me now is why I didn't bill him for
09:58 10 my communication?

11 Q Yes.

12 A I think that is a privileged information.

13 Q How does that represent an attorney-client
14 privilege?

15 A I'm claiming that as privileged information
16 and I'm going to refuse to answer based on that claim.

17 Q Okay. Well, we can address that at a later
18 point.

19 Have you worked on any litigation involving
09:58 20 Mr. Lin or any of his entities that he owns?

21 A Have I worked on any litigation? Again, just
22 to give your word "work" a broad definition, I mean, I
23 consider what I'm doing right now work even though I'm
24 not getting paid for it. This is related to his
25 entity, so, in that respect, yes.

1 Q Okay.

2 A I know, if you want to ask a more specific
3 question, maybe --

4 Q Sure.

5 Well, separate and apart from appearing at
6 the deposition today, have you done any work for
7 Mr. Lin in connection with any litigation brought by
8 Mr. Lin or any of his entities?

9 A Not that I know of, no.

09:59 10 Q Okay. Had you prepared any materials in
11 anticipation of any litigation for Mr. Lin?

12 A I believe so, yes.

13 Q Okay. Which ones would those be?

14 A Specifically the documents?

15 Q Yes.

16 A I think almost everything I did for him was
17 prepared in anticipation of litigation when I was
18 working for him.

19 Q So in your view, preparing patent prosecution
10:00 20 documents is done in anticipation of litigation?

21 A When you say "patent prosecution documents,"
22 do you mean, for example, drafting the patent
23 application?

24 Q Sure.

25 A It can be. In a sense it is, yes.

1 Q Well -- okay. So it is your position that
2 the documentation you prepared in connection with the
3 prosecution of patents for Mr. Lin was done in
4 anticipation of litigation?

5 A In general, they can be. In my case, if
6 you're asking me when I was preparing the patent
7 application for Mr. Lin, was that done in anticipation
8 of litigation --

9 Q That's my question.

10:01 10 A Is that the specific question you're asking?

11 Q Yes.

12 A I believe that it was, yes.

13 Q What litigation?

14 A There was no litigation in place at the time.

15 Q Well, what litigation was it done in
16 anticipation of?

17 A It was in anticipation of some litigation.

18 Q Against who?

19 A I don't know that there was a specific entity
10:01 20 in mind at the time.

21 Q Okay.

22 MR. ANDERSON: Microsoft would request that
23 Mr. Cohen and plaintiff's counsel reconsider their
24 assertion of work product in light of that statement.
25 BY MR. PERLSON: